REMARKS

In response to the Office Action mailed September 20, 2005, Applicants provisionally elect to prosecute the claims of Group XV, i.e. Claims 1, 2, 41 and 44, in part and 18, with strong traverse. The claims of Group XV, as noted by the Examiner, are drawn to a human monoclonal antibody comprising a heavy chain amino acid sequence of SEQ ID NO: 62 and a light chain amino acid sequence of SEQ ID NO: 64, classified in Class 530, subclass 387.1+. Claims 42-43 and 45-48 have been withdrawn by way of this response. New Claims 49 and 52 directed to monoclonal antibodies 3.11.1 and 3.11.2, which are identical clones, and which comprise a heavy chain amino acid sequence of SEQ ID NO: 62 and a light chain amino acid sequence of SEQ ID NO:64, has been added. Support for new Claims 49 and 52 can be found throughout the specification and claims as originally filed, for example, at paragraphs **[0033]**, **[0034]**, **[01310]**, **[0132]**, **[0182]**, **[0188]**, **[0189]**, **[0194]**, **[0195]**, and **[0197]**, in Tables 1, 9, 10, 11, 15, and in Figures 2, 3, and 9. New Claim 50 directed to an antibody that cross competes for binding to MCP-1 with monoclonal antibodies 3.11.1 and 3.11.2 has been added. Support for new Claim 50 can be found throughout the application and claims as originally filed, for example at paragraph **[0018]**. New Claim 51 directed to an antibody that binds to the sequence ISVQRLASYRRITSSK has been added. Support for new Claim 51 can be found throughout the specification and claims as originally filed, for example at paragraph **[0189]**, wherein the specification describes the epitope to which antibody 3.11.2 binds. Thus, Claims 1-52 are pending.

With regard to the restriction between Groups I-XXXVII and Groups XXXVII-XXXX, the Examiner notes that a restriction between product and process claims has been required. Specifically, Claims 1-41 and 44, and new Claims 49-51, are drawn to a novel product and withdrawn Claims 42-43 and 45-48 are drawn to processes for using the claimed product. Applicants have elected to prosecute the claims directed to the product and have withdrawn the claims directed to the process. Thus, in accordance with the provisions of M.P.E.P. § 821.04, Applicants reserve the right to rejoin process claims that depend from or otherwise include all of the limitations of any product claim found to be allowable.

With regard to the restriction between Groups I-XXXVII, the Examiner argued that restriction is proper because the antibodies represent separate and distinct antibody products

because they bind to chemically distinct epitopes on a variety of distinct polypeptides that differ in amino acid sequence. In addition, the Examiner argued that the search for antibodies that consist of different sequences and may potentially bind to different antigens, including the portions, and percentages of different amino acid segments would invoke a high search burden because there are eight different databases that accompany the search of one discrete amino acid or nucleotide sequence and each result set from a particular database must be carefully considered.

A restriction requirement is appropriate only if the different groups are independent and distinct. *See* M.P.E.P. § 802.01. Inventions are independent if they 1) have different modes of operation, functions, or effects; 2) are directed to process and apparatus where the apparatus cannot be used to practice the process; or 3) are directed unrelated species under a genus. *See* M.P.E.P. § 806.04. In making a restriction requirement, Examiners must set forth: 1) the reasons why the inventions are either independent or distinct and 2) the reasons for insisting upon restriction. *See* M.P.E.P. § 808. Where the inventions are related, the reasons for insisting upon restriction must include at least one of the following: 1) each distinct subject has attained recognition in the art as a separate subject for inventive effort, 2) an explanation indicates a recognition of separate inventive effort by the inventors, or 3) each subject has a different field of search such that it is necessary to search for one of the distinct subjects in places where no pertinent art to the other subject exists. *See* M.P.E.P. § 808.02.

The claims of Groups I-XXXVII, i.e. Claims 1-41 and 44, are drawn to human monoclonal antibodies that binds to MCP-1, and thus, contrary to the Examiner's assertions regarding binding to a variety of distinct epitopes, there is an intimate connection between the claimed products in that they all comprise human monoclonal antibodies that binds to MCP-1.

The Examiner has not made any showing that each distinct subject has attained recognition in the art as a separate subject for inventive effort. Nor has the Examiner argued that there was recognition of separate inventive effort by the inventors, or that each subject has a different field of search such that it would be necessary to search for one of the distinct subjects in places where no pertinent art to the other subject exists. For these reasons, the Examiner has failed to meet the burden of demonstrating that Groups I-XXXVIII are independent and distinct.

The Examiner identifies a straightforward search approach involving multiple databases, but does not establish how such a search would impose a serious burden. Requesting multiple searches of gene databases may impose some burden on the Examiner, but it would not be serious.

Applicants respectfully submit that the examination of Groups I-XXXVII together will not impose a serious burden on the Examiner because of the intimate connection between the claimed products. Indeed, the Examiner *must* examine the entire application if the search and examination can be made without serious burden (M.P.E.P. §803.01). Furthermore, no conservation of USPTO resources would be realized if the restriction requirement as asserted is maintained.

For all of the above reasons, Applicants respectfully request withdrawal of the rejection and examination of all pending claims.

Should the Examiner refuse to examine all of the claims together, Applicants reserve the right to file a petition to the Commissioner regarding this restriction, and to further prosecute any withdrawn claims in divisional applications, if necessary, under the provisions of 35 U.S.C. § 121.

The undersigned has made a good faith effort to respond to the Restriction Requirement. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is invited to call the undersigned attorney to resolve such issues promptly. No fees are seen as being necessary for filing this Response. However, the Commissioner is authorized to charge any fees in connection with this paper to Deposit Account No. 11-410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

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By: Sheila R. Gibson

Sheila R. Gibson
Registration No. 54,120
Attorney of Record
Customer No. 20,995
(619) 235-8550